

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MSI SYSTEMS INTEGRATORS,)	8:05CV213
INC., f/k/a MIDLAND SYSTEMS,)	
INC., a Nebraska corporation,)	
)	
Plaintiff,)	
)	
vs.)	MEMORANDUM
)	AND ORDER
SAIA MOTOR FREIGHT LINE,)	
INC., a Louisiana Corporation,)	
)	
Defendant.)	

The defendant has filed a motion (filing 13) to set aside the Clerk's Entry of Default (filing 7) against it for the reasons that the defendant's claims manager inadvertently placed the summons in this case with papers involving another pending case; the claims manager learned of this mistake five days after its answer deadline; the claims manager immediately contacted the defendant's attorneys in Nebraska for prompt action; and the defendant believes it has meritorious defenses to this lawsuit. (Filing 14.) After considering the evidence submitted in support of Defendant's claim of clerical error, I shall set aside the Clerk's Entry of Default (filing 7) for good cause shown. Fed. R. Civ. P. 55(c).

The defendant's motion (filing 13) also requests leave to file its answer out of time. Attached to the defendant's motion is its proposed answer. The answer shall be accepted instanter. However, for the convenience of the parties and the court, the defendant shall file the same document as a separate pleading within five business days of the date of this memorandum and order.

IT IS ORDERED:

1. The motion (filing 13) to set aside the Clerk's Entry of Default is granted, and the Entry of Default (filing 7) against the defendant is set aside for good cause shown pursuant to Fed. R. Civ. P. 55(c);
2. The plaintiff's motion for default judgment (filing 8) is denied;
3. The defendant's motion to file its answer out of time (filing 13) is granted; and
4. Defendant shall file its answer as a separate pleading within five business days of the date of this order.

July 14, 2005.

BY THE COURT:

s/Richard G. Kopf
United States District Judge